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10

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

15 CRAIGSLIST, INC., a Delaware corporation,

16 Plaintiff,

17 v.

18 3TAPS, INC., a Delaware corporation;
PADMAPPER, INC., a Delaware
19 corporation; DISCOVER HOME
NETWORK, INC., a Delaware corporation
d/b/a LOVELY; HARD YAKA, INC., a
20 Delaware corporation; BRIAN R. NIJESSEN,
an individual; ROBERT G. KIDD, an
individual; and Does 1 through 25, inclusive,

21 Defendants.
22

CASE NO. CV 12-03816 CRB

AMENDED DECLARATION OF ROBERT J. ELLISON IN SUPPORT OF PLAINTIFF CRAIGSLIST, INC.'S CONSOLIDATED REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT (EXHIBITS NOT ATTACHED)

DECLARATION OF ROBERT J. ELLISON

I, Robert J. Ellison, declare as follows:

1. I am an attorney at law duly admitted to practice in the State of California, and am an associate in the law firm of Latham & Watkins LLP, attorneys of record for Plaintiff craigslist, Inc. (“craigslist”) in this action. I have personal knowledge of the facts contained herein and, if called upon to do so, I could and would testify competently thereto. I submit this declaration in support of craigslist’s Consolidated Reply in Support of Motion for Leave to File Third Amended Complaint.

9 2. On March 17, 2015, counsel for 3taps, Inc., Robert G. Kidd and Hard Yaka, Inc.
10 (the “3taps Defendants”) called me requesting, for the first time, that craigslist stipulate to the
11 3taps Defendants’ filing of a Second Amended Answer. I informed counsel for the 3taps
12 Defendants that craigslist would consider the request and get back to them.

13 3. Since March 19, 2015 when craigslist suggested a global stipulation regarding the
14 3taps Defendants' and craigslist's potential amendments once craigslist determined how it
15 proposed to amend its complaint, the parties have taken 18 depositions and Defendants served
16 eight written discovery responses. As craigslist explained to Defendants, this extensive
17 discovery was used to inform and finalize craigslist's amendments.

18 4. On April 2, 2015, Magistrate Judge Corley ordered craigslist to produce all
19 documents on which it may rely to support its theories of trespass harm, and also to identify any
20 witness who might testify in support of these facts. (Dkt. No. 223, at 2.) craigslist subsequently
21 identified these witnesses (who had not yet been deposed) and produced substantial documentary
22 evidence that will serve as the basis for its contention that Defendants' conduct constitutes an
23 unlawful trespass.

24 5. On April 15, 2015, craigslist emailed Defendants clean and redlined versions of
25 the proposed Third Amended Complaint and requested Defendants' stipulation. Attached as
26 **Exhibit A** is a true and correct copy of the April 15 email. At an in-person meet and confer on
27 April 20, 2015, Defendants indicated that they declined to stipulate to craigslist's proposed
28 amendments.

1 6. Counsel for PadMapper barely participated in any of the 19 depositions of the
2 3taps and craigslist witnesses taken during fact discovery. Moreover, PadMapper relied on the
3 3taps Defendants' experts (having not retained any experts of its own during fact discovery), and
4 deferred to counsel for the 3taps Defendants in nearly all of the discovery disputes between the
5 parties.

6 7. Attached as **Exhibit B** is a true and correct copy of select pages of testimony
7 offered by craigslist's Chief Executive Officer, Jim Buckmaster, during the craigslist 30(b)(6)
8 deposition on April 29, 2015.

9 8. Attached as **Exhibit C** is a true and correct copy of select pages of testimony
10 offered by Robert G. Kidd, the 3taps founder and Chief Executive Officer, during his deposition
11 on April 28, 2015.

12 9. Attached as **Exhibit D** is a true and correct copy of select pages of testimony
13 offered by Meg Nakamura, the 3taps Chief Operating Officer, during her deposition on March
14 26, 2015.

15 10. Attached as **Exhibit E** is a true and correct copy of an email from Nakamura to
16 3taps' Ukrainian scraping agents, which was produced by 3taps during discovery in or around
17 April 2014 and bears the Bates number 3taps0209178.

18 11. Attached as **Exhibit F** is a true and correct copy of select pages of testimony
19 offered by Eric DeMenthon, the founder and Chief Executive Officer of PadMapper, during his
20 deposition on March 18, 2015.

21 12. Attached as **Exhibit G** is a true and correct copy of PadMapper's Objections and
22 Responses to craigslist's Second Set of Interrogatories.

23 13. Attached as **Exhibit H** is a true and correct copy of select pages of testimony
24 offered by Mr. Kidd during 3taps' 30(b)(6) deposition on April 27, 2015.

25 I hereby certify under penalty of perjury that the foregoing is true and correct and that
26 this declaration was executed on June 15, 2015 in Los Angeles, California.

/s/ Robert J. Ellison

Robert J. Ellison